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CALIFORNIA COASTAL COMMISSION

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Appeal Filed: 12/7/04
49th Day: 1/7/05
Staff: S. Hudson
Staff Report: 12/22/04
Hearing Date: 1/12/05



STAFF REPORT: APPEAL **SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: County of Santa Barbara

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A-4-STB-04-124

APPLICANT: Santa Barbara County Public Works Department

APPELLANTS: Commissioners Caldwell and Wan; Bruce Murdock; and Surfrider Foundation

PROJECT LOCATION: Public Rights-of-Way, Isla Vista, Santa Barbara County

PROJECT DESCRIPTION: Implementation of a Managed Parking Program in the community of Isla Vista. The boundaries of the program are depicted in Exhibit 2 and generally include all streets/public road rights-of-way in the community of Isla Vista in Santa Barbara County. The parking program has three components: (1) a metered parking zone encompassing the downtown commercial area; (2) 106 designated coastal access parking spaces; and (3) residential preferential permit parking encompassing all remaining areas. In addition, the program will include the installation of approximately 400-500 new parking restriction street signs to be located in the public right-of-way of the residential and commercial districts and 10-12 new pay stations within the public right-of-way in the commercial district. The purpose of the parking permit and meter program is to prioritize on street parking for residents and business patrons by reducing the number of non-resident drivers in the community.

SUBSTANTIVE FILE DOCUMENTS: County of Santa Barbara Coastal Development Permit and Revised Staff Report (04CDH-00000-00001, approved 11/9/04); Santa Barbara County Board Agenda Letter regarding Appeals of 04CDH-00000-00001 dated October 28, 2004; Final Revised Negative Declaration for Isla Vista Parking Program by Santa Barbara County Staff dated June 15, 2004; and Resolution 04-247 by Santa Barbara County Board of Supervisors to Establish a Preferential Residential Parking Program, approved September 7, 2004 and Ordinance Nos. 4542 and 4543 to Amend Chapter 23B of the Santa Barbara County Code adding Provisions Relating to Parking Program Requirements, including Isla Vista.

SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE EXISTS

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the appellants' assertions that the project is not consistent with the public access and recreation policies of the certified Local Coastal Program (LCP). Motion and resolution can be found on **Page 5**.

The purpose of the preferential residential parking program is to prioritize on street parking for residents and business patrons by reducing the number of non-resident drivers in the seaside community of Isla Vista. The parking program would accomplish this by restricting the amount, location, duration, and time of day that parking spaces would be available for non-residents. There are approximately 3,000 existing on-street parking spaces in the community, all of which are currently available for public use on a "first-come, first-serve" basis. There are five existing vertical access ways that provide public access from the Del Playa Drive to the sandy beach.

Specifically, parking for non-residents would be restricted to metered pay-parking in the commercial district and 101 designated coastal access parking spaces that would be time-restricted to four-hours per user. Further, 93 of the 101 designated time-limited public access spaces would be further restricted by prohibiting all parking between the hours of 10:00 pm and 5:00 am effectively eliminating the potential for night-time public coastal access at all but 8 of the spaces. If the program were implemented, the 101 public coastal access spaces would not be distributed evenly within the community but (as shown on Exhibit 2) would be almost exclusively located on the far west end of the community. Parking for 4 of the 5 existing public access ways that provide access to the beach would be limited to only 4 on-street spaces.

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EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Parking Program Map
- Exhibit 3. Commissioner Appeal
- Exhibit 4. Murdock Appeal
- Exhibit 5. Surfrider Appeal
- Exhibit 6. Final Local Action NoticeCounty Approval with Conditions
- Exhibit 7 s

I. APPEAL JURISDICTION

The project is located in Isla Vista, a community of unincorporated Santa Barbara County. The Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction map certified for the County of Santa Barbara (Adopted November 19, 1982) indicates that a portion of the project area will be located within the appeal jurisdiction for this area, including the entire length of Del Playa Drive which is the first public road paralleling the sea and which provides on-street parking and access to five different vertical public accessways to the sandy beach. In addition, the development approved by the County (in this case, a Parking Management Program) is not designated as a principal permitted use within the subject zoning districts and may, therefore, be appealed to the Commission irrespective of its geographic location within the Coastal Zone (Coastal Act Section 30603[a][4]). Finally, the development also constitutes a major public works project and, therefore, may also be appealed in its entirety to the Commission irrespective of its geographic location within the Coastal Zone (Coastal Act Section 30603[a][5]). As such, the entire project is appealable to the Commission.

A. APPEAL PROCEDURES

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

1. Appeal Areas

Developments approved by cities or counties may be appealed if they are located within the appealable areas, such as those located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act Section 30603[a]). Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]). Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5]).

2. Grounds for Appeal

The grounds for appeal for development approved by the local government and subject to appeal to the Commission shall be limited to an allegation that the development does

not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in Division 20 of the Public Resources Code. (Coastal Act Section 30603[a][4])

3. Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three (3) minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that substantial issue is raised by the appeal.

4. De Novo Permit Hearing

If a substantial issue is found to exist, the Commission will consider the application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and the public access policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

In this case, if the Commission finds substantial issue, staff anticipates de novo permit consideration by the Commission at a future Commission hearing.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On November 9, 2004, the County of Santa Barbara Board of Supervisors approved Coastal Development Permit 04CDH-00000-00001 to implement a Public Works Managed Parking Program with associated signage and pay stations in the public rights-of-way within the community of Isla Vista. The Notice of Final Action for the project was received by Commission staff on December 6, 2004. A ten working day appeal period was set and notice provided beginning December 7, 2004, and extending to December 20, 2004.

An appeal of the County's action was filed by: (1) Bruce Murdock on December 7, 2004; (2) Commissioners Caldwell and Wan on December 17, 2004; and (3) Surfrider Foundation on December 20, 2004, during the appeal period. Commission staff notified the County, the applicant, and all interested parties that were listed on the appeals and

requested that the City provide its administrative record for the permit. The administrative record was received on December 21, 2004.

II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-STB-04-218 raises **NO** substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local actions will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-STB-04-218 presents a substantial issue with respect to the grounds on which the appeals have been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

On November 9, 2004, the Santa Barbara County Board of Supervisors approved Coastal Development Permit 04CDH-00000-00001 to authorize the County's Department of Public Works to implement a Managed Parking Program in the community of Isla Vista. The boundaries of the program are depicted in Exhibit 2 and generally include all streets/public road rights-of-way in the community of Isla Vista in Santa Barbara County. The parking program has three components: (1) a metered parking zone encompassing the downtown commercial area; (2) 106 designated coastal access parking spaces; and (3) residential preferential permit parking encompassing all remaining areas. In addition, the program will include the installation of approximately 400-500 new parking restriction street signs to be located in the public right-of-way of the residential and commercial districts and 10-12 new pay stations within the public

right-of-way in the commercial district. The purpose of the parking permit and meter program is to prioritize on street parking for residents and business patrons by reducing the number of non-resident drivers in the community.

The program would regulate all on-street parking in the community of Isla Vista. Isla Vista is a seaside residential community, approximately ½ square mile in area, located in an unincorporated area of Santa Barbara County immediately west of the University of California, Santa Barbara and immediately east of the Coal Oil Point Natural Reserve. Development in the community is generally characterized as high-density residential within the majority of the program area with some single-family residential neighborhoods and a small commercial “downtown” district. There are approximately 3,000 existing on-street parking spaces in the community, all of which are currently available for public use on a “first-come, first-serve” basis. There are five existing vertical access ways that provide public access from the Del Playa Drive to the sandy beach.

As stated above, the purpose of the parking permit and meter program is to prioritize on street parking for residents and business patrons by reducing the number of non-resident drivers in the community. This would be accomplished by restricting the amount, location, duration, and time of day that parking spaces would be available for non-residents. Parking by non-residents would be limited to no more than one hour in the majority of the residential areas and prohibited entirely in the remaining residential areas. Residents would be eligible to purchase parking permits that would exempt them from these parking restrictions. Specifically, parking for non-residents would be restricted to metered pay-parking in the commercial district and 101 parking spaces that would be time-restricted to four-hours per user for public coastal access parking. Further, 93 of the 101 designated time-limited public access spaces would be further restricted by prohibiting all parking between the hours of 10:00 pm and 5:00 am effectively eliminating the potential for night-time public coastal access at all but 8 of the spaces. In addition, 5 additional metered parking spaces would be designated for public coastal access use in the commercial district. The program would allow the public (non-residents) to park in the otherwise restricted residential areas on weekend mornings (Saturday and Sunday) between the hours of 5:00 am to 12-noon. The locations of the parking area and their applicable restrictions are depicted on Exhibit 2.

The Coastal Development Permit was approved subject to 9 project specific conditions (see Exhibit 3), including the following: conformance with approved project description; review and approval by Board of Architectural Review of sign and pay station designs; low-intensity/low glare lighting restriction for pay stations; implementation of dust control measures during construction; archaeological and cultural resources; timing/hours of construction activity; monitoring of coastal access parking; installation of signage or use of brochures indicating location of public coastal access parking; and a Water Pollution Control Program.

B. LOCAL PERMIT HISTORY

Project Approved by Zoning Administrator and Board of Supervisor

On September 13, 2004, the Santa Barbara County Zoning Administrator approved the appealable coastal development permit for the proposed parking program. This decision was appealed to the Board of Supervisors by Bruce Murdock and Surfrider Foundation. On November 9, 2004, the Board of Supervisors approved the coastal development permit upholding the Zoning Administrator's approval of the project and denying the appeals.

Related Approval of Amendment to County Code

The County's certified LCP does not contain any provisions that specifically address implementation of preferential parking programs within the Coastal Zone. On September 7, 2004, the Board of Supervisors approved and adopted a resolution to establish a preferential residential parking program in the community of Isla Vista. In addition, Ordinance Nos. 4542 and 4543 were approved and adopted by the Board of Supervisors on July 27, 2004 to amend the County's Code (Chapter 23B and 23D) adding Chapter 23B to the County Code authorizing new County wide residential parking programs (including areas within the Coastal Zone) and Chapter 23D which would specifically address the preferential parking program in the community of Isla Vista, which is located entirely within the Coastal Zone. Regardless of the fact that this amendment to the County Code would directly affect public access and recreation within the County's Coastal Zone, no change or amendment to the LCP was proposed by the County or approved by the Commission to incorporate the new ordinance into the County's certified LCP. The Commission notes that institution of a community-wide preferential parking program, as authorized by the above referenced amendment to the County Code and approved by the coastal permit that is the subject of this appeal, would directly affect existing public access and recreation resources in the community and; therefore, in order to ensure consistency and prevent conflict between the provisions of the certified LCP and the County Code, would most appropriately be addressed as an amendment to the LCP.

C. APPELLANTS' CONTENTIONS

The County's action was appealed to the Commission by: (1) Commissioners Caldwell and Wan; (2) Bruce Murdock; and (3) Surfrider Foundation.

The appeal filed by Commissioners Caldwell and Wan is attached as Exhibit 4. The appeal contends that the approved project is not consistent with the policies of the certified LCP with regard to the public access and recreation policies of the certified Santa Barbara County Local Coastal Program (LCP) and applicable policies of the Coastal Act as incorporated by reference into the certified LCP. The Commissioners' appeal alleges that the project is not consistent with Coastal Act policies 30210, 30211,

30212, 30212.5, 30213, 30214, 30223, and 30252 and as incorporated by reference by LUP Policy 1-1; and LUP policies 7-1.

The appeal filed by Bruce Murdock is attached as Exhibit 5. The appellant states that the program is inconsistent with Article II, 35-102A of the LCP with regard to preservation of the character and integrity of the “R1” single-family residential zoned district. The appellant further contends that public parking for coastal access was previously available on an equal basis throughout the community and that the approved Parking Program would effectively concentrate the majority of designated coastal access parking to one neighborhood on the far west side of Isla Vista (zoned for single-family residence development) while relatively few public parking spaces would be provided in the central and eastern portions of the community (neighborhoods developed primarily with multi-family residences). This appellant identified alternatives to the approved project including a two-zone parking program that would redistribute coastal access parking throughout the Isla Vista community or relocating or providing new coastal access parking on adjacent University-owned land at Coal Oil Point Natural Reserve.

The appeal filed by Surfrider Foundation is attached as Exhibit 6. The appeal contends that the parking program will deny maximum coastal access and recreational opportunities to non-residents by eliminating all but 106 parking spaces for public coastal access in non-compliance with Policy 1-1 of the LCP and Sections 30210, 30212.5, and 30213 of the Coastal Act.

D. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project’s conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act.

A substantial issue does exist with respect to the grounds on which the appeal has been filed. The approved project is inconsistent with policies of the County of Santa Barbara Local Coastal Program and with the public access policies of Chapter 3 of the Coastal Act for the specific reasons discussed below.

1. Public Access and Recreation

Several of the appellants contend that the project is inconsistent with public access and recreation policies of the County of Santa Barbara Local Coastal Program and with the public access policies of Chapter 3 of the Coastal Act. The appellants cited the policies summarized below in the County LCP and Chapter 3 of the Coastal Act relating to public access and recreation protection.

Policy 1-1: All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Coastal Act Section 30210 states that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30212(a) states:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.***
- (2) adequate access exists nearby, or,***
- (3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.***

Coastal Act Section 30212.5 states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Coastal Act Section 30213 states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Coastal Act Section 30214 states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.***
- (2) The capacity of the site to sustain use and at what level of intensity.***

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Finally, Policy 7-1 of the LUP states, in relevant part, that:

The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline.

The public possesses ownership interests in tidelands or those lands below the mean high tide line. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The protection of these public areas and the assurance of access to them lies at the heart of Coastal Act policies requiring both the implementation of a public access program and the minimization of impacts to access and the provision of access, where applicable, through the regulation of development. To carry out the requirement of Section 4 of Article X of the California Constitution, Section 30210 of the Coastal Act, as incorporated into the certified LCP, requires that

maximum access and recreational opportunities be provided in coastal areas. In addition, Section 30211 of the Coastal Act requires that development not interfere with public access to the sea where acquired through use or legislative authorization. Furthermore, Section 30212 of the Coastal Act, as incorporated in the LCP, requires that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects with certain exceptions such as public safety, military security, resource protection, and where adequate access exists nearby. In addition, Section 30214 of the Coastal Act, as incorporated in the LCP, provides that the implementation of the public access policies take into account the need to regulate the time, place, and manner of public access depending of such circumstances as topographic and geologic characteristics, the need to protect natural resources, proximity to adjacent residential uses etc. Finally, LCP Policy 7-1 further highlights the County's duty to "protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline."

Coastal access is generally viewed as an issue of physical supply, and is dependent not only on the provision of lateral access (access along a beach) and vertical access (access from an upland street, bluff or public park to the beach), but also the availability of public parking (including on-street parking). In past Commission actions, the Commission has found that the availability of public parking (including on-street parking) constitutes a significant public access and recreation resource and is as important to coastal access as shoreline accessways.

The project that is subject to this appeal involves the establishment of a preferential parking program for private residents. The program would limit on-street parking by non-residents on all public streets within the Isla Vista community. The County's revised staff report for the program dated September 3, 2004, specifically states that "the purpose of the parking permit and meter program is to prioritize on street parking for residents and business patrons by reducing the number of non-resident drivers in the community. This would be accomplished by restricting the amount, location, duration, and time of day that parking spaces would be available for non-residents. Parking by non-residents would be limited to no more than one hour in the majority of the residential areas and prohibited entirely in the remaining residential areas. Residents would be eligible to purchase parking permits that would exempt them from these parking restrictions. Specifically, parking for non-residents would be restricted to metered pay-parking in the commercial district and 101 parking spaces that would be time-restricted to four-hours per user for public coastal access parking. Further, 93 of the 101 designated time-limited public access spaces would be further restricted by prohibiting all parking between the hours of 10:00 pm and 5:00 am effectively eliminating the potential for night-time public coastal access at all but 8 of the spaces. In addition, 5 additional metered parking spaces would be designated for public coastal access use in the commercial district. The program would allow the public (non-residents) to park in the otherwise restricted residential areas on weekend mornings (Saturday and Sunday) between the hours of 5:00 am to 12-noon. The locations of designated parking areas and their applicable restrictions are depicted on Exhibit 2.

Development in the community is generally characterized as high-density residential for the majority of the program area with some single-family residential neighborhoods and a small commercial “downtown” district. There are approximately 3,000 existing on-street parking spaces in the community, all of which are available for public use. There are five existing vertical access ways that provide public access from the Del Playa Drive to the sandy beach. In general, users of on-street parking in the community include: residents; visitors to the area; customers to stores, shops, and restaurants; employees of businesses; students of the adjacent University; and beachgoers.

The approximately 3,000 on-street parking spaces within the boundaries of the program area are heavily used. A parking survey was conducted by the Santa Barbara County Public Works Department on six separate weekdays over a two-week period in the months of September and October. According to the County’s survey, an average of 86–96 percent of on-street parking spaces were occupied at a given time within the study area. The highest percentage rates of occupancy were found to exist on the western end of Isla Vista adjacent to the University and commercial district while significantly lower rates of occupancy (with a corresponding increase in the percentage of vacant spaces) occurred on the eastern end of Isla Vista adjacent to Coal Oil Point Natural Reserve/Devereaux Slough.

Some of the appellants contend that the preferential program is inconsistent with the provisions of the above cited sections of the Coastal Act regarding public access and recreation, which have been included in the County’s LCP pursuant to LUP Policy 1-1 and which require the protection of existing public access and public recreation resources in coastal areas. Of particular note, Policy 7-1 of the LUP highlights the County’s duty to “protect and defend the public’s constitutionally guaranteed rights of access to and along the shoreline,” however, the stated primary purpose of the parking program is to prioritize parking for the private residents of Isla Vista. Although the parking program would include some provisions for public access, on the whole, it would significantly reduce the amount of existing parking available for public access to the coast.

The appellants raise concerns that the program will result in the loss of existing parking facilities that are currently available for public access and recreation. Currently, all 3,000 on-street parking spaces in the community are available for general public use and coastal access on a “first-come, first-serve” basis. With the exception of metered parking in the commercial district and on-street parking in residential areas on weekend mornings only, the parking program approved by the County would effectively reduce the amount of existing parking spaces currently available for public use in the community to no more than 101 spaces. The loss in the amount of the existing parking spaces available for public coastal access that would result from implementation of the program raises a substantial question regarding the program’s consistency with the public access and recreation policies of both the Coastal Act and the LCP.

In addition, some appellants raise concerns that the new restrictions limiting both the duration and the time of day that non-residents would be allowed to park in the program

area would result in a significant impact to the public's ability to access the beach. Currently, the streets where the 101 coastal access spaces would be located are available for 24-hour parking. The program would create new restrictions that would limit the use these spaces to a duration of no more than 4-hours at a time. In addition, 93 of the 101 spaces would be further restricted by prohibiting all parking between the hours of 10:00 pm and 5:00 am effectively eliminating the potential for night-time public coastal access at all but 8 of the spaces. The significant reduction in both the duration and time of day that parking would be available for coastal access raises a substantial question regarding the program's consistency with the provision of maximum public access to the sea or the protection of existing public access resources as required by the public access policies of the LCP and Coastal Act.

In addition, all of the appellants have raised concerns regarding the location of the parking spaces that would remain available for public access. If the program were implemented, the 101 public coastal access spaces would not be distributed evenly within the community but (as shown on Exhibit 2) would be almost exclusively located on the far west end of the community. Parking for 4 of the 5 existing public access ways that provide access from Del Playa Drive to the beach would be limited to only 4 on-street spaces. The majority of existing available parking spaces on Del Playa Drive would be effectively restricted to use by residents only. The reduction and relocation of the majority of parking spaces that would remain available for coastal access by non-residents to the western end of the community will not serve to provide maximum public access to the sea or to protect existing public access resources as required by the public access policies of the LCP and Coastal Act.

In addition, some appellants have raised concern that the reduction in the overall number of parking spaces available for public parking in the community will likely result in increased demand and competition for the remaining spaces (including demand and competition by non-coastal access parking users). In response, to this concern, the County's report and staff recommendation to the County's Board of Supervisors dated October 28, 2004, asserts:

Rather than decreasing coastal access parking, the program creates and reserves dedicated free and low-cost coastal access parking for long-term assurance that coastal access users do not have to compete for certain spaces with other non-coastal access users...Under the program, all designated coastal access spaces are legally reserved only for coastal access users. It is the responsibility of the Sheriff and parking enforcement officers to patrol and enforce coastal access parking restrictions...As discussed in the MND, the mitigation would require the mandatory addition of more spaces and/or implementation of a permit or meter system if the results of monitoring show consistent occupancy rates of 90% or more of the coastal access spaces.

As approved by the County, a special condition of the permit would require limited monitoring of the coastal access spaces by either the County Public Works Department or the Sheriff's Department four days per month for the first six months and then every two years during the life of the program. However, it is not clear from this condition how such monitoring would ensure that use of the designated "coastal access" spaces would be limited solely for beach access users as opposed to other short-term parking uses

(such as short-term parking by non-resident visitors to the adjacent residences). Further, approved permit conditions contain additional provisions that, in the event that occupancy rate of the coastal access spaces “exceeds 90% on 3 or more days per month, monitoring will continue and Director of Public Works...will implement a metered and/or permit system and/or designate additional coastal access parking...” However, (with the exception of providing additional spaces for public coastal access) implementation of the two other identified “mitigation measures” would actually serve to further reduce the public’s ability to park and access the coast inconsistent with the public access and recreation policies of both the Coastal Act and the LCP.

In regards to the appeal by Bruce Murdock, the appellant contends that the program is inconsistent with Article II, 35-102A of the LCP with regard to preservation of the character and integrity of the “R1” single-family residential zoned district because the majority of designated coastal access parking would be limited to the far west side of Isla Vista (zoned for single-family residence development) while relatively few public parking spaces would be provided in the central and eastern portions of the community (neighborhoods developed primarily with multi-family residences). This appellant identified alternatives to the approved project including a two-zone parking program that would redistribute coastal access parking (although not necessarily provide more parking spaces) evenly throughout the Isla Vista community. Currently, on-street public coastal access parking is available in the entire “R1” single-family residential zoned district. In past permit action, the Commission has found that the provision of on-street parking is consistent with residential development; therefore, the designation of parking spaces for public coastal access in such districts does not raise substantial issue with any policy or article of the LCP. However, as previously discussed, the significant reduction and relocation of the majority of the parking spaces that would be available for public coastal access users to the western end of the community will not serve to provide maximum public access to the sea or to protect existing public access resources as required by the public access policies of the LCP and Coastal Act and does raise substantial issue with the public access and recreation policies of the LCP and Coastal Act.

Therefore, for the above reasons, the Commission finds that a substantial issue is raised with respect to the appellants’ contentions that the project does not meet provisions of the certified Local Coastal Program or the applicable policies of the Coastal Act regarding protection of public access and recreation.

E. CONCLUSION

The purpose of the substantial issue determination is to review the administrative record and establish whether a substantial question is raised with respect to the appellants’ assertions that the project does not conform to the certified LCP and public access policies of the Coastal Act. As described above, the Commission finds that the appellants’ contentions do raise substantial issue with regard to the consistency of the approved project with the public access and recreation standards of the certified Local Coastal Program.